

AMENDMENTS TO THE DRAWINGS

Figures 1 and 4 are amended. In Figure 1, a reference numeral and lead line for the bore 28 has been added. In Figure 4, the reference numeral 34 and its associated lead line has been deleted. Submitted concurrently herewith are replacement sheets of Drawings for Figures 1 and 4. Entry of the corrections to and the replacement of Figures 1 and 4 is respectfully requested.

REMARKS

Claims 40-64 are pending in this application. Claims 40, 49 and 58 are amended. New claim 64 is added. Claim 64 is supported throughout the specification and figures of the present application, and more specifically at line page 6, line 22 through page 7, lines 1-5. No new matter is introduced thereby.

The Drawings are amended to add reference numeral 28 to Figure 1 to identify the bore 28 mentioned in the specification on page 6, line 17 and shown in the drawing. Also, reference numeral 34 in Figure 4 is deleted since its surface is not shown in the drawing. Accordingly, the portion of the specification discussing Figure 4 is amended to indicate that surface 32 rather 34 is being discussed in the figure. No new matter is introduced. Submitted concurrently herewith are replacement sheets of Drawings for Figures 1 and 4. Entry of the corrections to and the replacement of Figures 1 and 4 is respectfully requested.

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Interview Summary

Applicant's representative wishes to thank the Examiner for the courtesy of granting a telephone interview on July 30, 2007. The Examiner reviewed and discussed our proposed claim amendment to claim 40, and said that our proposed claim amendment appeared to overcome Hood.

35 U.S.C. § 102

Claims 40-63 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hood (U.S. Patent No. 5,935,143). It is respectfully submitted that this rejection is overcome in view of the above amendments and the following remarks.

Under 35 U.S.C. § 102 (b) no claim is anticipated unless all of the elements are found in exactly the same situation and united in the same way in a single prior art reference. As stated in MPEP §2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

As discussed during the telephone interview, independent claim 40 has been amended with proposed language discussed during the interview. The proposed language has been introduced into independent claims 49 and 58 also. Applicant submits that these claims

overcome Hood, as well as any of the cited related art. It is respectfully submitted that claims 40, 49, and 58 are therefore in condition for allowance, as well as claims 41-48, 50-57, and 59-63 which depend ultimately therefrom. Withdrawal of this rejection is requested.

In addition, Applicant submits that newly submitted claim 64 is not disclosed by Hood or any of the related art. Claim 64 recites the structure of the first surface and the second surface of the blade. Claim 64 recites "a first cambered surface and a second cambered surface on said body, each said cambered surface extending from said first side to said second side." These limitations are not disclosed by Hood or any of the related art. Accordingly, Applicant submits that claim 64 is also in condition for allowance.

35 U.S.C. § 103

Claims 40-63 are rejected under 35 U.S.C. § 103 (a) as being obvious over Hood. The Office Action states that it would have been obvious to curve the first and second surfaces convexly to achieve a different cutting effect, and further than some dependent claims deemed not to be shown would have been obvious modifications for the purposes of improving cutting performance of the blade. Applicant respectfully traverses this rejection.

In general, the standard for determining obviousness, is "whether the design would have been obvious to a designer of ordinary skill with the claimed type of article." (MPEP § 1504.03). To establish a prima facie case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art must teach all the claim limitations. MPEP § 2142. This standard is not met in this case.

The ultrasonic blade of the present application relates to an ultrasonic blade generated by a device used by the Applicant to define a cutting edge. The Cutting edge is defined by the intersection of a first surface and a second surface. The first surface has a first curve, and the first surface extends continuously from a first side of the blade body to a second side. Similarly, the second surface has a second curve, and the second surface extends continuously from a first side of the blade body to a second side.

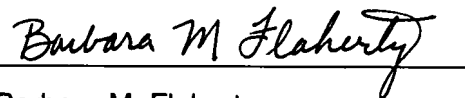
In contrast, Hood teaches a u-shaped cutting instrument with cutting teeth about its periphery and with a *depression 36 in its middle portion*. (Col. 6, lines 13-27). Curved surfaces, 47, lie along the periphery of the cutting tool, and do not extend from one side of the blade body (left side of Fig. 2) to the other (right side of Fig. 2). Thus, Hood teaches away from having the

geometry of blade body in the present application. Further, the blade in the present application would not even be useful for the applications stated in Hood. A stated objective in Hood is to provide a reduced thermal footprint which is useful in the medical field so that nearby tissue is not heated up. (Col. 6, lines 25-28) . To achieve this end, Hood teaches the depression 36 in the middle of a blade to limit the thermal footprint. (Col. 6, lines 4-6). So, Hood does not teach or suggest a cutting geometry according to the present invention, at least because Hood does not disclose a curved surface extending continuously between the first side and the second side of the blade body. Accordingly, Applicant respectfully submits that Hood does not teach claims 40, 49 and 58 and claims 41-48, 50-57, and 59-63 which depend ultimately therefrom, but instead teaches away from the claims of the present application. For the same reasons mentioned above, new claim 64 is also considered to be in condition for allowance. Therefore, Applicant respectfully requests that claims 40-64 be allowed.

Conclusion

All rejection and objections having been addressed, it is submitted that the above-identified application is in condition for allowance. An early and favorable action on the merits is respectfully requested. It is believed no fee is due in the filing of this Response; however, if the Commissioner deems it necessary, please charge any deficiency or credit any overpayment to Deposit Account 50-2036, referencing attorney docket no. 5165.1460.

Respectfully submitted,



Barbara M. Flaherty

Reg. No. 41,019

Date: August 13, 2007
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
Tel. No.: (202) 861-1754; Fax No.: (202) 861-1783